No. 01-1871

Supreme Court, U.S.
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In The
Supreme Court of the United States

JAMES L. PRATT, MICHAEL P. ANGELINI
and ERIC J. BROWN,
Petitioner,

v.

NATIONAL POSTAL MAIL
HANDLERS UNION, LOCAL 305
and UNITED STATES POSTAL SERVICE,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION OF RESPONDENT NATIONAL POSTAL MAIL HANDLERS UNION, LOCAL 305

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STATEMENT OF THE CASE

This case arose out of Petitioners' job transfers within the United States Postal Service, as the petition recounts. Petitioners' Statement of the Case, however, contains important misstatements and omissions of facts on which this Court's consideration of the petition will turn.

Each of the Petitioners initially worked in the mail handler craft at the Postal Service's Merrifield, Virginia installation. Consequently, each was represented by the National Postal Mail Handlers Union, Local 305, concerning wages, hours and other terms and conditions of work. Each voluntarily transferred out of the Merrifield installation to other non-supervisory positions. Two of the three left the mail handler craft for positions in other postal crafts. Petitioner Angelini remained a mail handler. Each voluntarily transferred back to Merrifield and to the mail handler craft within one year. (Pet. A. 3a).

Article 12.2D2 of the Union's national collective bargaining agreement provides that a mail handler's seniority is computed from the date of employment in the craft so long as service in the craft and in the postal installation is uninterrupted. Following this principle, Article 12.2F1 requires that, when an employee voluntarily transfers from one installation to another, or from one craft to another, the employee must begin a new period of seniority. Article 12.2G3 similarly requires employees changing from other crafts to the mail handler craft to begin a new seniority period. (Pet. A. 7a).

On return to Merrifield, each of the Petitioners began a new seniority period in accordance with these contract provisions. (Pet. A. 3a-4a). All three requested Local 305's administrative vice president to file grievances on their behalf seeking restoration of their former seniority and status. (Pet. A. 4a). Each sought to rely on Article 12.2G7 of the collective bargaining agreement, which provides an exception to the required new seniority period when a mail handler returns to the craft from a "nonbargaining unit position" within one year. (Pet. 5; Pet. A. 7a).

The administrative vice president discussed the pending grievances separately with Local 305's president and with an official in the Union's national contract administration department. Both instructed the administrative vice president that the term "nonbargaining unit position" in Article 12.2G7 referred to a supervisory position and that, as a result, the article's exception did not apply to the Petitioners. (J.A.[1] 121 ¶ 4, 290-94, 313-14).

The provisions of Article 12.2G7 originally were negotiated in 1973 as part of an omnibus collective bargaining agreement between the Postal Service and all postal crafts. (Pet. A. 8a). The term "nonbargaining unit position" was first used in the article in the 1978 omnibus agreement. (J.A. 74¶4). In those omnibus agreements, "bargaining unit position" referred to all craft positions, and "nonbargaining unit position" referred to supervisory jobs. (J.A. 317). The exception for returning from a nonbargaining unit position is an

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1 Citations to "J.A." are to the parties' joint appendix in the appeal below.

incentive allowing mail handler craft employees to pursue supervisory positions without risk of losing their craft seniority if unsuccessful in the first year. (Pet. A. 8a). The Union and the Postal Service always have interpreted and applied Article 12.2G7 in this way. (Pet. A. 8a; J.A. 481).

Notwithstanding this instruction and history, the administrative vice president pressed Petitioners' grievances and initially obtained written grievance settlements restoring the seniority and status of each. (Pet. A. 4a). Because seniority is always relative to others, Petitioners' restoration bypassed other mail handlers at the Merrifield installation. Those bypassed mail handlers were the subject of a class action grievance that became known as the "Burnside Grievance." (Pet. A. 4a). The Burnside grievance asserted that Petitioners' prior grievance settlements violated Article 12.2F1. (Pet. A. 4a). The grievance sought a redetermination of seniority and status for everyone affected by Petitioners' restoration. (J.A. 200-01).

Postal Service management denied the Burnside grievance at the first step of the grievance process. (J.A. 228-30, 532). When the Postal Service's plant manager learned of the grievance at the second step of the process, he was confused and concerned because local union officials were taking opposite positions concerning Petitioners' seniority rights. (J.A. 239-41). He contacted Local 305's president. The two recognized the error made in initially settling the Petitioners' grievances. (Pet. A. 4a). They agreed to resolve the Burnside grievance by vacating the

Petitioners' settlements, withdrawing the Burnside grievance, and reverting everyone to their seniority and status before Petitioners' initial grievance settlements.[2] (Pet. A. 4a).

Local 305's president instructed local union representatives to withdraw the Burnside grievance and sign an agreement with the Postal Service vacating the Petitioners' prior grievance settlements. (J.A. 324-25). During the following weeks, the Union confirmed its position in a letter to the plant manager and subsequently signed a "memorandum of agreement" to this effect. (J.A. 342, 352-53).

REASONS FOR DENYING THE WRIT

Petitioners present four questions mirroring their arguments for granting the requested writ. Essentially, Petitioners assert that the United States Court of Appeals for the Fourth Circuit erred by: (i) holding that the Union properly revoked Petitioners' grievance settlements by means "outside" the grievance process; (ii) holding that grievance settlements in general are no longer enforceable contracts; (iii) resolving on summary judgment a disputed contract term; and (iv) holding that federal courts may resolve contract disputes on summary judgment rather than confining the parties to their

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[2] Both the plant manager and Local 305's president were authorized grievance representatives at the second step of the grievance process. Article 15.2, step 2(c), of the collective bargaining agreement designates the plant manager as the Postal Service's representative. (J.A. 513). The local union's president is an authorized representative under Article IV § 5(19) of the Union's constitution. (J.A. 112).

contractual dispute resolution process. From these self-sustaining assertions, Petitioners contend that the opinion of the court of appeals establishes "a dangerous anomaly in the law" where employers and unions now may freely repudiate grievance settlements. (Pet. 12).

The opinion below, however, does not hold what Petitioners claim it holds. Neither the opinion nor the underlying record raise any of the questions presented by Petitioners. This Court, therefore, need never reach the merits of Petitioners' arguments.

This case is fact-driven, as the uncontested facts set out above demonstrate. The decision of the court of appeals was a straight-forward affirmation of the district court's exercise of judicial authority under Federal Rule of Civil Procedure 56. It is in accord in all respects with established principles of federal labor law, and is not in conflict with any decision of this Court or a United States court of appeals. There is no reason to grant the requested writ.

I.

QUESTION 1 IS BASED ON A MISSTATEMENT OF THE RECORD. THE ERROR IN PETITIONERS' GRIEVANCE SETTLEMENTS WAS RESOLVED BY THE CONTRACTUAL GRIEVANCE PROCESS.

Petitioners contend that the Union breached its duty of fair representation by revoking their grievance settlements "outside" the contractual grievance process. (Pet. Question 1; Pet. 13-14). To create

support for this contention, Petitioners segregate two facts - the withdrawal of the Burnside grievance and the execution of the memorandum of agreement revoking Petitioners' prior settlement agreements - and treat these as unrelated events. (Pet. 8, 13). Petitioners then argue that, by withdrawing the Burnside grievance, the Union and the Postal Service dismissed the only available contractual means of resolving the situation. (Pet. 15). Thus, Petitioners maintain that the memorandum of agreement was a "non-contract process," and that signing it was a breach of the Union's duty to them. (Pet. 13-15, 19).

This contention ignores the facts. The Burnside grievance withdrawal and the memorandum of agreement are inextricably linked. Neither would have occurred without the other. The Burnside grievance proceeded to the second step of the contractual process, where it was resolved by the mutual agreement of designated Union and Postal Service representatives. Under that agreement, the Union would withdraw its grievance and in return the Postal Service would correct the Petitioners' seniority and status. The court of appeals, on de novo review, specifically found that the settlement of the Burnside grievance revoked the Petitioners' prior grievance settlements. (Pet. A. 6a).

Petitioners acknowledge that the Burnside grievance was a "contractually specified mechanism" to revoke their settlements. (Pet. 15). That mechanism was used. The Petitioners cannot reasonably maintain on this record that the revocation of their settlements

was accomplished outside the contractual process. This Court does not grant a writ of certiorari simply to review the findings of uncontested facts by two lower courts absent an extraordinary reason. *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 665 (1987); *Graves Mfg. Co. v. Linde Co.*, 336 U.S. 271, 275 (1949). Nothing presented in this petition should compel the Court to do so here.

Once Petitioners' factual misstatement is recognized, there is no basis for their challenge to the finding below that the Union satisfied its duty of fair representation. A union does not breach this duty unless it acts "so far outside a wide range of reasonableness as to be irrational." *Air Line Pilots Ass'n v. O'Neill*, 499 U.S. 65, 67 (1991) (internal quotation marks and citation omitted). The Union's effort to correct the initial misapplication of the collective bargaining agreement and enforce the agreement in accordance with the long-held, mutual understanding of the Union and Postal Service was imminently reasonable and rational. The Union had the right, and indeed the obligation, to enforce its good faith understanding of the contract for the collective good, even when that position seems contrary to the immedia.e interests of the Petitioners. *See Humphrey v. Moore*, 375 U.S. 335, 349-50 (1964). It did so within the contractual process, as the court of appeals found. Petitioners' Question 1, therefore, presents no issue warranting this Court's review.

II.

QUESTION 2 MISSTATES THE HOLDING OF THE COURT OF APPEALS. THE HOLDING IS IN ACCORD WITH PRIOR DECISIONS OF THIS COURT AND OTHER CIRCUITS.

Petitioners assert the court of appeals held grievance settlements are "no longer independently enforceable contracts." (Pet. Question 2; Pet. 17-18). The court, however, never reached the question of enforceability of their grievance settlements. It held only that the Union and Postal Service's interpretation of their collective bargaining agreement was reasonable and rational, and that the two parties enforced their interpretation through the contractual process. (Pet. A. 6a, 9a). Given this holding, the court did not need to consider the viability of Petitioners' interpretation or the enforceability of their grievance settlements. Where the interpretation of the parties to the collective bargaining agreement is reasonable and rational, a court does not substitute and enforce the preferred interpretation of others, even that of the court. *See Air Line Pilots Ass'n*, 499 U.S. at 78; *Humphrey*, 375 U.S. at 349-51.

In effect it would not matter whether the court of appeals held Petitioners' initial settlements were enforceable. Those settlements would not be held sacrosanct. The collective bargaining representatives could modify or even revoke those settlements, as they did here, so long as their action was based on good faith and a rational basis. Indeed, collective bargaining

representatives potentially change previously guaranteed rights of employees every time they negotiate terms of work.

Petitioners cite decisions from the Fifth, Sixth, Seventh and Eighth Circuits supporting the primacy of contractual dispute resolution processes and resolutions reached under them. (Pet. 17-18). Unlike the present case, each of those cited cases involved a dispute between the employer and union about the meaning of their contract and a unilateral effort to repudiate a valid resolution of the dispute. The court in each decision upheld the enforceability of the parties' contractual process and valid resolutions reached under the process.

There is no conflict with those decisions here. The principles underlying those decisions are not at issue in this case. There has never been a dispute between the Union and Postal Service about the meaning of their collective bargaining agreement or the enforcement of it. The decision below does not challenge the primacy of the parties' grievance resolution process or the decisions reached under the process. Rather, it upholds the process and the resolution. It recognizes the parties' ability to correct the initial error in settling Petitioners' grievances with a rational resolution of the Burnside grievance that followed. The decision never held any grievance resolution unenforceable and does not raise the issue presented in Question 2 of the petition.

III.

QUESTIONS 3 AND 4 ALSO MISSTATE THE HOLDING BELOW. THE COURT OF APPEALS NEVER DETERMINED THE MEANING OF ANY DISPUTED CONTRACT TERM.

Petitioners interpret the term "nonbargaining unit position" in Article 12.2G7 to mean any non-mail handler position. They maintain that, under this interpretation, they fit within the exception to the general rule requiring them to begin a new seniority period. The Union and the Postal Service have maintained steadfastly that a "nonbargaining unit position" is a supervisory position and, since none of the Petitioners returned from a supervisory position, the exception in Article 12.2G7 does not apply.

Petitioners assert now that the court of appeals erred by resolving the disputed interpretation of the term "nonbargaining unit position." (Pet. Questions 3 and 4; Pet. 21). This assertion again misstates the court's holding, and Petitioners' arguments supporting this assertion have no foundation. The court below did not decide the meaning of this term. It specifically stated twice in its opinion that it reached no decision on the "correct" interpretation. (Pet. A. 6a, 9a). Rather, it concluded only that the shared interpretation of the Union and Postal Service was rational and fell "within a range of reasonableness." (Pet. A. 6a, 9a). This conclusion is all that was necessary for the court to hold that the Union did not breach its duty of fair representation, *see Air Line Pilots Ass'n*, 499 U.S. at 78, and hence to affirm summary judgment for both the

Union and the Postal Service. *See Hines v. Anchor Motor Freight, Inc.*, 424 U.S. 554, 570-71 (1976) (complainant must show a contract violation and also a breach of the duty of fair representation to prevail against either respondent).

This conclusion is well-supported by the record. As the court of appeals noted, the Union and the Postal Service's interpretation is consistent with the negotiating history between the two and with some twenty-five years of interpretation and enforcement. (Pet. A. 7a-8a). It also is consistent with the provisions for computing seniority in Article 12.2D2 and for beginning a new seniority period in 12.2F1 and G3. (Pet. A. 8a-9a). Petitioners' preferred interpretation, granting a universal grace period for mail handlers to try any non-mail handler position, on the other hand, would create an exception that all but swallows the rule in 12.2D2 and would render 12.2F1 and G3 meaningless. Moreover, one of the Petitioners does not qualify for the exception even as they interpret it. Mr. Angelini left the Merrifield installation for another mail handler position. (Pet. 4; Pet. A. 3a). He did not return from a nonbargaining unit position under any interpretation. Petitioners have never explained this.

The court of appeals did not resolve any material dispute about the meaning of the contract term. It did not need to do so in order to affirm the decision of the district court. Its holding does not raise the issues Petitioners present in Questions 3 and 4. These questions provide no basis for the requested writ.

CONCLUSION

The record and decision below support none of the questions presented in this petition. For these reasons, the Union respectfully requests this Court to deny the petition for a writ of certiorari.

Respectfully submitted,

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